CPMG / KA / BG-GPO/13/2003-2005

ಸುವರ್ಣ ಕರ್ನಾಟಕ - 2006



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೦	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಜುಲೈ ೨೮, ೨೦೦೫ (ಶ್ರಾವಣ ೬, ಶಕ ವರ್ಷ ೧೯೨೭)	ಸಂಚಿಕೆ ೩೦

ಭಾಗ - ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 37 ಕೇಶಾಪ್ರ 2005, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 20ನೇ ಜುಲೈ 2005

2005ನೇ ಸಾಲಿನ ಏಪ್ರಿಲ್ 1ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ The Parel Investments and Trading Private Limited (Taking over of Management) Repeal Act, 2005 (Central Act No.14 of 2005) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE PAREL INVESTMENTS AND TRADING PRIVATE LIMITED AND DOMESTIC GAS PRIVATE LIMITED (TAKING OVER OF MANAGEMENT) REPEAL ACT 2005

to repeal the Parel investments and Trading Private Limited and Domestic Gas Private Limited (Taking Over of Management) Act, 1979

WHEREAS for giving effect to the policy of the State towards securing the principle specified in clause (b) of article 39 of the Constitution, it was proposed to acquire the undertakings of the Parel Investments and Trading Private Limited (hereinafter referred to as "PITCL") as well as Domestic Gas Private Limited (hereinafter referred to as "DGPL") and collectively referred to as "the said Companies" so that the means and resources as to bottling, transporting, marketing and distribution of liquefied petroleum gas of the said Companies become vested in the State and thereby, are so distributed as best to subserve the common good;

AND WHEREAS pending the acquisition of the under takings of the said Companies for the purpose of nationalisation of the business of bottling, transporting, marketing and distribution of liquid petroleum gas carried on by them, the management of the undertakings of the said Companies was taken over by the Central Government by the Parel Investments and Trading Private Limited and Domestic Gas Private Limited (Taking Over of Management) Act, 1979 (29 of 1979), and the Hindustan Petroleum Corporation Limited was appointed as the Custodian of the said undertakings;

AND WHEREAS in terms of a Memorandum of Compromise entered into on the 11th April, 2002 by the said Companies and its certain shareholders on the one part and the Central Government and the

Custodian on the other part, two separate Deeds of Assignment both dated the 2nd April, 2004 were executed between PITCL and DGPL respectively through the Custodian as the Assignors and the Central Government as the Assignee and registered with the Sub-Registrar of Assurances at Mumbai on the 2nd August, 2004, to assign, transfer and vest in the Central Government, the undertakings and business of the said Companies together with their assets and properties and more particularly described in sub-section (2) of section 3 of the said Act and in the manner set out in the said Memorandum of Compromise, but excluding the assets not to be taken over and to be handed over back to PITCL and DGPL respectively for the consideration and in the manner set out in the said Deeds;

AND WHEREAS in terms of the said Memorandum of Compromise two other separate Deeds of Assignment both dated the 2nd April, 2004 were executed between the Central Government and the Hindustan Petroleum Corporation Limited and registered with the Sub-Registrar of Assurances at Mumbai on the 2nd August, 2004, to assign, transfer and vest in the Hindustan Petroleum Corporation Limited the undertakings and business of the said Companies together with their assets and properties excluding the assets not to be taken over and to be handed over back to PITCL and DGPL respectively for the consideration and in the manner set out in the said Deeds;

AND WHEREAS in pursuance of the execution of the aforesaid Deeds of Assignment and acquisition of undertakings of the said Companies by the Central Government and thereafter by the Hindustan petroleum Corporation Limited, it has become necessary to repeal the said Act and to revest the management of the said Companies in respect of their business and assets other than those relating to liquefied petroleum gas through their respective board of directors, as may be appointed in accordance with the law for the time being in force.

Be it enacted by Parliament in the fifty-sixth Year of the Republic of India as follows:-

1. Short title.- This Act may be called the Parel Investments and Trading Private Limited and Domestic Gas Private Limited (Taking Over of Management) Repeal Act, 2005.

2. Repeal and savings.- (1) The Parel Investments and Trading Private Limited and Domestic Gas Private Limited (Taking Over of Management) Act, 1979 (29 of 1979) is hereby repealed.

(2) On the repeal of the Parel Investments and Trading Private Limited and Domestic Gas Private Limited (Taking Over of Management) Act, 1979 (29 of 1979), the management of the Parel Investments and Trading Private Limited and Domestic Gas Private Limited shall be vested and deemed to have been vestd in the respective board of directors of the said Companies to be appointed after such repeal and possession of the assets of the said Companies relating to their business other than the business relating to liquefied petroleum gas and not taken over by the Central Government by the Act so repealed shall be deemed to have been taken over by, and continued with, the said Companies through their respective board of directors, as may be appointed in accordance with the law for the time being in force.

(3) Notwithstanding such repeal and without prejudice to the provisions contained in the General Clauses Act, 1897 (10 of 1897) with respect to repeals, anything done or action taken including any agreement entered into under any provision of the Parel Investments and Trading Private Limited and Domestic Gas Private Limited (Taking Over of management) Act, 1979 (29 of 1979), by the Central Government or the Custodian appointed by it shall continue to be in force and have effect as if this Act had not been passed.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ರಿಚಾರ್ಡ್ ಲೋಬೋ

PR-149

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 38 ಕೇಶಾಪ್ರ 2005, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 20ನೇ ಜುಲೈ 2005

2005ನೇ ಸಾಲಿನ ಏಪ್ರಿಲ್ 5ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ The Patents (Amendment) Act, 2005 (Central Act No.15 of 2005) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE PETENTS (AMENDMENT) ACT, 2005

further to amend the Patents Act, 1970

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

1. **Short title and commencement.-** (1) This Act may be called the Patents (Amendment) Act, 2005.

(2) Sub-clause (ii) of clause (a), and clause (b), of section 37, sections 41, 42, 47, 59 to 63 (both inclusive) and 74 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of January, 2005.

2. **Amendment of section 2.-** In section 2 of the Patents Act, 1970 (39 of 1970) (hereinafter referred to as the principal Act), in sub-section (1),-

(a) after clause (ab), the following clause shall be inserted, namely:-

'(aba) "Budapest Treaty" means the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure done at Budapest on 28th day of April, 1977, as amended and modified from time to time;';

(b) in clause (d), for the words, brackets and figures "notified as such under sub-section (1) of section 133", the words and figures "referred to as a convention country in section 133" shall be substituted;

(c) clause (g) shall be omitted;

(d) in clause (h),-

(i) in sub-clause (iii), after the words and figures "the Companies Act, 1956 (1 of 1956)", the word "; or" shall be inserted;

(ii) after sub-clause (iii), the following sub-clause shall be inserted, namely:-
"(iv) by an institution wholly or substantially financed by the Government;";

(iii) the words "and includes the Council of Scientific and Industrial Research and any other institution which is financed wholly or for the major part by the said Council;" shall be omitted;

(e) for clause (i), the following clause shall be substituted, namely:-

'(i) "High Court", in relation to a State or Union territory, means the High Court having territorial jurisdiction in the State or Union territory, as the case may be;";

(f) for clause (ja), the following clause shall be substituted, namely:-

'(ja) "inventive step" means a feature of an invention that involves technical advance as compared to the existing knowledge or having economic significance or both and that makes the invention not obvious to a person skilled in the art;';

(g) for clause (l) and (m), the following clauses shall be substituted, namely:-

'(l) "new invention" means any invention or technology which has not been anticipated by publication in any document or used in the country or elsewhere in the world before the date of filing of patent application with complete specification, i.e., the subject matter has not fallen in public domain or that it does not form part of the state of the art;

(la) "Opposition Board" means an Opposition Board constituted under sub-section (3) of section 25;

(m) "patent" means a patent for any invention granted under this Act;';

(h) after clause (t), the following clause shall be inserted, namely:-

'(ta) "pharmaceutical substance" means any new entity involving one or more inventive steps;';

3. **Amendment of section 3.-** In section 3 of the principal Act, for clause (d), the following shall be substituted, namely:-

"(d) the mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant.

Explanation.- For the purposes of this clause, salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives of

known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy;".

4. Omission of section 5.- Section 5 of the principal Act shall be omitted.

5. Amendment of section 7.- In section 7 of the principal Act,-

(a) after sub-section (1A), the following sub-section shall be inserted, namely:-

"(1B) The filing date of an application referred to in sub-section (1A) and its complete specification processed by the patent office as designated office or elected office shall be the international filing date accorded under the Patent Cooperation Treaty.";

(b) in sub-section (3), for the word "owner", the word "person" shall be substituted;

(c) for sub-section (4), the following sub-section shall be substituted, namely:-

"(4) Every such application (not being a convention application or an application filed under the Patent Cooperation Treaty designating India) shall be accompanied by a provisional or a complete specification.".

6. Amendment of section 8.- In section 8 of the principal Act,-

(a) in sub-section (1),-

(i) for the words "within such period as the Controller may, for good and sufficient reasons, allow", the words "within the prescribed period as the Controller may allow" shall be substituted;

(ii) in clause (b), for the words "up to the date of the acceptance of his complete specification filed in India", the words "up to the date of grant of patent in India" shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) At any time after an application for patent is filed in India and till the grant of a patent or refusal to grant of a patent made thereon, the Controller may also require the applicant to furnish details, as may be prescribed, relating to the processing of the application in a country outside India, and in that event the applicant shall furnish to the Controller information available to him within such period as may be prescribed.".

7. Amendment of section 9.- In section 9 of the principal Act,-

(a) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) Where an application for a patent (not being a convention application or an application filed under the Patent Cooperation Treaty designating India) is accompanied by a provisional specification, a complete specification shall be filed within twelve months from the date of filing of the application, and if the complete specification is not so filed, the application shall be deemed to be abandoned.";

(b) in sub-section (2), the following proviso shall be inserted at the end, namely:-

"Provided that the period of time specified under sub-section (1) shall be reckoned from the date of filing of the earliest provisional specification.";

(c) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) Where an application for a patent (not being a convention application or an application filed under the Patent Cooperation Treaty designating India) is accompanied by a specification purporting to be a complete specification, the Controller may, if the applicant so requests at any time within twelve months from the date of filing of the application, direct that such specification shall be treated, for the purposes of this Act, as a provisional specification and proceed with the application accordingly.";

(d) in sub-section (4), for the words "the acceptance of the complete specification", the words "grant of patent" shall be substituted.

8. Amendment of section 10.- In section 10 of the principal Act,-

(a) in sub-section (3), for the words "before the acceptance of the application", the words "before the application is found in order for grant of a patent" shall be substituted;

(b) in sub-section (4), in the proviso,-

(i) in clause (ii), for the words "the material to an authorised depository institution as may be notified by the Central Government in the Official Gazette", the words "the material to an international depository authority under the Budapest Treaty" shall be substituted;

(ii) for sub-clause (A), the following sub-clause shall be substituted, namely:-

"(A) the deposit of the material shall be made not later than the date of filing the patent application in India and a reference thereof shall be made in the specification within the prescribed period;";

(c) for sub-section (4A), the following sub-section shall be substituted, namely:-

"(4A) In case of an international application designating India, the title, description, drawings, abstract and claims filed with the application shall be taken as the complete specification for the purposes of this Act.".

9. **Amendment of section 11.-** In section 11 of principal Act,-

(a) after sub-section (3), the following sub-section shall be inserted, namely:-

"(3A) Where a complete specification based on a previously filed application in India has been filed within twelve months from the date of that application and the claim is fairly based on the matter disclosed in the previously filed application, the priority date of that claim shall be the date of the previously filed application in which the matter was first disclosed.";

(b) in sub-section (6), after the brackets and figure "(3),", the brackets, figure and letter "(3A)," shall be inserted.

10. **Amendment of section 11A.-** In section 11A of the principal Act,-

(a) for sub-sections (1) to (3), the following sub-sections shall be substituted, namely:-

"(1) Save as otherwise provided, no application for patent shall ordinarily be open to the public for such period as may be prescribed.

(2) The applicant may, in the prescribed manner, request the Controller to publish his application at any time before the expiry of the period prescribed under sub-section (1) and subject to the provisions of sub-section (3), the Controller shall publish such application as soon as possible.

(3) Every application for a patent shall, on the expiry of the period specified under sub-section (1), be published, except in cases where the application-

(a) in which secrecy direction is imposed under section 35; or

(b) has been abandoned under sub-section (1) of section 9; or

(c) has been withdrawn three months prior to the period specified under sub-section (1).";

(b) in sub-section (4), for the words "of eighteen months", the words, brackets and figure "prescribed under sub-section (1)" shall be substituted;

(c) after sub-section (6), the following sub-section shall be inserted, namely:-

"(7) On and from the date of publication of the application for patent and until the date of grant of a patent in respect of such application, the applicant shall have the like privileges and rights as if a patent for the invention had been granted on the date of publication of the application:

Provided that the applicant shall not be entitled to institute any proceedings for infringement until the patent has been granted:

Provided further that the rights of a patentee in respect of applications made under sub-section (2) of section 5 before the 1st day of January, 2005 shall accrue from the date of grant of the patent:

Provided also that after a patent is granted in respect of applications made under sub-section (2) of section 5, the patent-holder shall only be entitled to receive reasonable royalty from such enterprises which have made significant investment and were producing and marketing the concerned product prior to the 1st day of January, 2005 and which continue to manufacture the product covered by the patent on the date of grant of the patent and no infringement proceedings shall be instituted against such enterprises.".

11. **Amendment of section 11B.-** In section 11B of the principal Act,-

(a) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) No application for a patent shall be examined unless the applicant or any other interested person makes a request in the prescribed manner for such examination within the prescribed period.";

(b) sub-section (2) shall be omitted;

(c) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) In case of an application in respect of a claim for a patent filed under sub-section (2) of section 5 before the 1st day of January, 2005 a request for its examination shall be made

in the prescribed manner and within the prescribed period by the applicant or any other interested person.";

(d) in sub-section (4),-

(i) the words, brackets and figure "or sub-section (2)" shall be omitted;

(ii) for the proviso, the following proviso shall be substituted, namely:-

"Provided that-

(i) the applicant may, at any time after filing the application but before the grant of a patent, withdraw the application by making a request in the prescribed manner; and

(ii) in a case where secrecy direction has been issued under section 35, the request for examination may be made within the prescribed period from the date of revocation of the secrecy direction.".

12. Amendment of section 12.- In section 12 of the principal Act,-

(a) in sub-section (1), for the words, brackets, figures and letter "under sub-section (1) or sub-section (2) or sub-section (3) of section 11B, the application and specification and other documents shall be referred to by the Controller", the words, brackets, figures and letter "under sub-section (1) or sub-section (3) of section 11B, the application and specification and other documents related thereto shall be referred at the earliest by the Controller" shall be substituted;

(b) in sub-section (2), for the words "a period of eighteen months from the date of such reference", the words "such period as may be prescribed" shall be substituted.

13. Amendment of section 13.- In section 13 of the principal Act, in sub-section (3), for the words "it has been accepted", the words "the grant of a patent" shall be substituted.

14. Substitution of new sections for sections 14 and 15.- For sections 14 and 15 of the principal Act, the following sections shall be substituted, namely:-

"14. Consideration of report of examiner by Controller.- Where, in respect of an application for a patent, the report of the examiner received by the Controller is adverse to the applicant or requires any amendment of the application, the specification or other documents to ensure compliance with the provisions of this Act or of the rules made thereunder, the Controller, before proceeding to dispose of the application in accordance with the provisions hereinafter appearing, shall communicate as expeditiously as possible the gist of the objections to the applicant and shall, if so required by the applicant within the prescribed period, give him an opportunity of being heard.

15. Power of Controller to refuse or require amended applications, etc., in certain cases.- Where the Controller is satisfied that the application or any specification or any other document filed in pursuance thereof does not comply with the requirements of this Act or of any rules made thereunder, the Controller may refuse the application or may require the application, specification or the other documents, as the case may be, to be amended to his satisfaction before he proceeds with the application and refuse the application on failure to do so.".

15. Amendment of section 16.- In section 16 of the principal Act,-

(a) in sub-section (1), for the words "before the acceptance of the complete specification", the words "before the grant of the patent" shall be substituted;

(b) for the Explanation, the following Explanation shall be substituted, namely:-

"Explanation.- For the purposes of this Act, the further application and the complete specification accompanying it shall be deemed to have been filed on the date on which the first mentioned application had been filed, and the further application shall be proceeded with as a substantive application and be examined when the request for examination is filed within the prescribed period.".

16. Amendment of section 17.- In section 17 of the principal Act, in sub-section (1), for the words "before acceptance of the complete specification", the words "before the grant of the patent" shall be substituted.

17. Amendment of section 18.- In section 18 of the principal Act,-

(a) in sub-section (1), for the words "to accept the complete specification", the words "the application" shall be substituted;

(b) sub-section (4) shall be omitted.

18. Amendment of section 19.- In section 19 of the principal Act, in sub-section (1), for the words and figures "by the foregoing provisions of this Act or of proceedings under section 25", the words "under this Act" shall be substituted.

19. Substitution of new section for section 21.- For section 21 of the principal Act, the following section shall be substituted, namely:-

"21. Time for putting application in order for grant.- (1) An applicantion for a patent shall be deemed to have been abandoned unless, within such period as may be prescribed, the applicant has complied with all the requirements imposed on him by or under this Act, whether in connection with the complete specification or otherwise in relation to the application from the date on which the first statement of objections to the application or complete specification or other documents related thereto is forwarded to the applicant by the Controller.

Explanation.- Where the application for a patent or any specification or, in the case of convention application or an application filed under the Patent Cooperation Treaty designating India any document filed as part of the application has been returned to the applicant by the Controller in the course of the proceedings, the applicant shall not be deemed to have complied with such requirements unless and until he has re-filed it or the applicant proves to the satisfaction of the Controller that for the reasons beyond his control such document could not be re-filed.

(2) If at the expiration of the period as prescribed under sub-section (1),-

(a) an appeal to the High Court is pending in respect of the application for the patent for the main invention; or

(b) in the case of an application for a patent of addition, an appeal to the High Court is pending in respect of either that application or the application for the main invention, the time within which the requirements of the Controller shall be complied with shall, on an application made by the applicant before the expiration of the period as prescribed under sub-section (1), be extended until such date as the High Court may determine.

(3) If the time within which the appeal mentioned in sub-section (2) may be instituted has not expired, the Controller may extend the period as prescribed under sub-section (1), to such further period as he may determine:

Provided that if an appeal has been filed during the said further period, and the High Court has granted any extension of time for complying with the requirements of the Controller, then the requirements may be complied with within the time granted by the Court.".

20. Omission of sections 22 to 24.- Section 22 to 24 of the principal Act shall be omitted.

21. Omission of Chapter IVA.- Chapter IVA of the principal Act shall be omitted.

22. Substitution of new heading for heading of Chapter V.- In Chapter V of the principal Act, for the Chapter heading "OPPOSITION TO GRANT OF PATENT", the Chapter heading "OPPOSITION PROCEEDINGS TO GRANT OF PATENTS" shall be substitued.

23. Substitution of new sections for sections 25 and 26.- For sections 25 and 26 of the principal Act, the following sections shall be substituted, namely:-

"25. Oposition to the patent.- (1) Where an application for a patent has been published but a patent has not been granted, any person may, in writing, represent by way of opposition to the Controller against the grant of patent on the ground-

(a) that the applicant for the patent or the person under or through whom he claims, wrongfully obtained the invention or any part thereof from him or from a person under or through whom he claims;

(b) that the invention so far as claimed in any claim of the complete specification has been published before the priority date of the claim-

(i) in any specification filed in pursuance of an application for a patent made in India on or after the 1st day of January, 1912; or

(ii) in India or elsewhere, in any other document:

Provided that the ground specified in sub-clause (ii) shall not be available where such publication does not constitute an enticipation of the invention by virtue of sub-section (2) or sub-section (3) of section 29;

(c) that the invention so far as claimed in any claim of the complete specification is claimed in a claim of a complete specification published on or after the priority date of the applicant's claim and filed in pursuance of an application for a patent in India, being a claim of which the priority date is earlier than that of the applicant's claim;

(d) that the invention so far as claimed in any claim of the complete specification was publicly known or publicly used in India befoer the priority date of that claim.

Explanation.- For the purposes of this clause, an invention relating to a process for which a patent is claimed shall be deemed to have been publicly known or publicly used in India before the priority date of the claim if a product made by that process had already been imported into India before that date except where such importation has been for the purpose of reasonable trial or experiment only;

(e) that the invention so far as claimed in any claim of the complete specification is abvious and clearly does not involve any inventive step, having regard to the matter published as mentioned in clause (b) or having regard to what was used in India before the priority date of the applicant's claim;

(f) that the subject of any claim of the complete specification is not an invention within the meaning of this Act, or is not patentable under this Act;

(g) that the complete specification does not sufficiently and clearly describe the invention or the method by which it is to be performed;

(h) that the applicant has failed to disclose to the Controller the information required by section 8 or has furnished the information which in any material particular was false to his knowledge;

(i) that in the case of convention application, the application was not made within twelve months from the date of the first application for protection for the invention made in a convention country by the applicant or a person from whom he derives title;

(j) that the complete specification does not disclose or wrongly mentions the source or geographical origin of biological material used for the invention;

(k) that the invention so far as claimed in any claim of the complete specification is anticipated having regard to the knowledge, oral or otherwise, available within any local or indigenous community in India or elsewhere,

But on other ground and the Controller shall, if requested by such person for being heard, here him and dispose of such representation in such manner and within such period as may be prescribed.

(2) At any time after the grant of patent but before the expiry of a period of one year from the date of publication of grant of a patent, any person interested may give notice of opposition to the Controller in the prescribed manner on any of the following grounds, namely:-

(a) that the patentee or the person under or through whom he claims, wrongfully obtained the invention or any part thereof from him or from a person under or through whom he claims;

(b) that the invention so far as claimed in any claim of the complete specification has been published before the priority date of the claim-

(i) in any specification filed in pursuance of an application for a patent made in India on or after the 1st day of January, 1912; or

(ii) in India or elsewhere, in any other document:

Provided that the ground specified in sub-clause (ii) shall not be available where such publication does not constitute an anticipation of the invention by virtue of sub-section (2) or sub-section (3) of section 29;

(c) that the invention so far as claimed in any claim of the complete specification is claimed in a claim of a complete specification published on or after the priority date of the claim of the patentee and filed in pursuance of an application for a patent in India, being a claim of which the priority date is earlier than that of the claim of the patentee;

(d) that the invention so far as claimed in any claim of the complete specification was publicly known or publcly used in India before the priority date of that claim.

Explanation.- For the purposes of this clause, an invention relating to a process for which a patent is granted shall be deemed to have been publicly known or publicly used in India before the priority date of the claim if a product made by that process had already been imported into India before that date except where such importation has been for the purpose of reasonable trial or experiment only;

(e) that the invention so far as claimed in any claim of the complete specification is obvious and clearly does not involve any inventive step, having regard to the matter published as mentioned in clause (b) or having regard to what was used in India before the priority date of the claim;

(f) that the subject of any claim of the complete specification is not an invention within the meaning of this Act, or is not patentable under this Act;

(g) that the complete specification does not sufficiently and clearly describe the invention or the method by which it is to be performed;

(h) that the patentee has failed to disclose to the Controller the information required by section 8 or has furnished the information which in any material particular was false to his knowledge;

(i) that in the case of a patent granted on convention application, the application for patent was not made within twelve months from the date of the first application for protection for the invention made in a convention country or in India by the patentee or a person from whom he derives title;

(j) that the complete specification does not disclose or wrongly mentions the source and geographical origin of biological material used for the invention;

(k) that the invention so far as claimed in any claim of the complete specification was anticipated having regard to the knowledge, oral or otherwise, available within any local or indigenous community in India or elsewhere,

but on no other ground.

(3) (a) Where any such notice of opposition is duly given under sub-section (2), the Controller shall notify the patentee.

(b) On receipt of such notice of opposition, the Controller shall, by order in writing, constitute a Board to be known as the Opposition Board consisting of such officers as he may determine and refer such notice of opposition along with the documents to that Board for examination and submission of its recommendations to the Controller.

(c) Every Opposition Board constituted under clause (b) shall conduct the examination in accordance with such procedure as may be prescribed.

(4) On receipt of the recommendation of the Opposition Board and after giving the patentee and the opponent an opportunity of being heard, the Controller shall order either to maintain or to amend or to revoke the patent.

(5) While passing an order under sub-section (4) in respect of the ground mentioned in clause (d) or clause (e) of sub-section (2), the Controller shall not take into account any personal document or secret trial or secret use.

(6) In case the Controller issues an order under sub-section (4) that the patent shall be maintained subject to amendment of the specification or any other document, the patent shall stand amended accordingly.

26. In case of "obtaining" Controller may treat the patent as the patent of opponent.- (1) Where in any opposition proceeding under this Act the Controller finds that-

(a) the invention, so far as claimed in any claim of the complete specification, was obtained from the opponent in the manner set out in clause (a) of sub-section (2) of section 25 and revokes the patent on that ground, he may, on request by such opponent made in the prescribed manner, direct that the patent shall stand amended in the name of the opponent;

(b) a part of an invention described in the complete specification was so obtained from the opponent, he may pass an order requiring that the specification be amended by the exclusion of that part of the invention.

(2) Where an opponent has, before the date of the order of the Controller requiring the amendment of a complete specification referred to in clause (b) of sub-section (1), filed an application for a patent for an invention which included the whole or a part of the invention held to have been obtained from him and such application is pending, the Controller may treat such application and specification in so far as they relate to the invention held to have been obtained from him, as having been filed, for the purposes of this Act relating to the priority dates of claims of the complete specification, on the date on which the corresponding document was or was deemed to have been filed by the patentee in the earlier

application but for all other purposes the application of the opponent shall be proceeded with as an application for a patent under this Act.".

24. Omission of section 27.- Section 27 of the principal Act shall be omitted.

25. Amendment of section 28.- In section 28 of the principal Act,-

(a) for sub-section (4), the following sub-section shall be substituted, namely:-

"(4) A request or claim under the foregoing provisions of this section shall be made before the grant of patent.";

(b) sub-section (5) shall be omitted;

(c) in sub-section (6), for the words, brackets and figure "Subject to the provisions of sub-section (5), where", the word "Where" shall be substituted.

26. Amendment of section 31.- In section 31 of the principal Act, for the words "not later than six months", the words "not later than twelve months" shall be substituted.

27. In section 34 of the principal Act, the words "to accept complete specification for a patent or" shall be omitted.

28. Amendment of section 35.- In section 35 of the principal Act, in sub-section (3), for the words "acceptance of complete specification", the words "grant of patent" shall be substituted.

29. Amendment of section 36.- In section 36 of the principal Act, in sub-section (1), for the words "twelve months", the words "six months" shall be substituted.

30. Amendment of section 37.- In section 37 of the principal Act,-

(a) in sub-section (1),-

(i) in clause (a), for the words "to accept", the words "to grant" shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:-

"Provided that the application may, subject to the directions, proceed up to the stage of grant of the patent, but the application and the specification found to be in order for grant of the patent shall not be published, and no patent shall be granted in pursuance of that application.";

(b) in sub-section (2), for the words "is accepted", the words "is found to be in order for grant of the patent" shall be substituted.

31. Substitution of new section for section 39.- For section 39 of the principal Act, the following section shall be substituted, namely:-

"39. Residents not to apply for patents outside India without prior permission.- (1) No person resident in India shall, except under the authority of a written permit sought in the manner prescribed and granted by or on behalf of the Controller, make or cause to be made any application outside India for the grant of a patent for an invention unless-

(a) an application for a patent for the same invention has been made in India, not less than six weeks before the application outside India; and

(b) either no direction has been given under sub-section (1) of section 35 in relation to the application in India, or all such directions have been revoked.

(2) The Controller shall dispose of every such application within such period as may be prescribed:

Provided that if the invention is relevant for defence purpose or atomic energy, the Controller shall not grant permit without the prior consent of the Central Government.

(3) This section shall not apply in relation to an invention for which an application for protection has first been filed in a country outside India by a person resident outside India.".

32. Substitution of heading of Chapter VIII.- In Chapter VIII of the principal Act, for the Chapter heading "GRANT AND SEALING OF PATENTS AND RIGHTS CONFERRED THEREBY", the Chapter heading "GRANT OF PATENTS AND RIGHTS CONFERRED THEREBY" shall be substituted.

33. Substitution of new section for section 43.- For section 43 of the principal Act, the following section shall be substituted, namely:-

"43. Grant of patents.- (1) Where an application for a patent has been found to be in order for grant of the patent and either-

(a) the application has not been refused by the Controller by virtue of any power vested in him by this Act; or

(b) the application has not been found to be in contravention of any of the provisions of this Act,

the patent shall be granted as expeditiously as possible to the applicant or, in the case of a joint application, to the applicants jointly, with the seal of the patent office and the date on which the patent is granted shall be entered in the register.

(2) On the grant of patent, the Controller shall publish the fact that the patent has been granted and thereupon the application, specification and other documents related thereto shall be open for public inspection.".

34. Amendment of section 44.- In section 44 of the principal Act, for the word "sealed", at both the places where it occurs, the word "granted" shall be substituted.

35. Amendment of section 45.- In section 45 of the principal Act, in sub-section (3), for the words "the date of advertisement of the acceptance of the complete specification", the words "the date of publication of the application" shall be substituted.

36. Amendment of section 48.- In section 48 of the principal Act, the proviso shall be omitted.

37. Amendment of section 52.- In section 52 of teh principal Act,-

(a) in sub-section (1),-

(i) for the opening words "Where a patent has been revoked", the words and figures "Where the patent has been revoked under section 64" shall be substituted;

(ii) for the word "court", wherever it occurs, the words "Appellate Board or court" shall be substituted;

(b) in sub-section (2), for the word "court", occurring at both the places, the words "Appellate Board or court" shall be substituted.

38. Amendment of section 53.- In section 53 of the principal Act,-

(a) after sub-section (1), the following Explanation shall be inserted, namely:-

"Explanation.- for the purposes of this sub-section, the term of patent in case of International applications filed under the Patent Cooperation Treaty designating India, shall be twenty years from the international filing date accorded under the Patent Cooperation Treaty.";

(b) in sub-section (2), for the words "or within that period as extended under this section", the words "or within such extended period as may be prescribed" shall be substituted;

(c) sub-section (3) shall be omitted.

39. Amendment of section 54.- In section 54 of the principal Act,-

(a) In sub-section (3), for the words "complete specification", occurring at both the places, the word "application" shall be substituted;

(b) for sub-section (4), the following sub-section shall be substituted, namely:-

"(4) A patent of addition shall not be granted before grant of the patent for the main invention.".

40. Amendment of section 57.- In section 57 of the principal Act,-

(a) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) Any application for leave to amend an application for a patent or a complete specification or a document related thereto under this section made after the grant of patent and the nature of the proposed amendment may be published.";

(b) in sub-section (4),-

(i) for the word "advertised", the word "published" shall be substituted;

(ii) for the word "advertisement", the word "publication" shall be substituted;

(c) for sub-section (6), the following sub-section shall be substituted, namely:-

"(6) The provisions of this section shall be without prejudice to the right of an applicant for a patent to amend his specification or any other document related thereto to comply with the directions of the Controller issued before the grant of a patent.".

41. Substitution of new section for section 58.- For section 58 of the principal Act, the following section shall be substituted, namely:-

"58. Amendment of specification before Appellate Board or High Court.- (1) In any proceeding before the Appellate Board or the High Court for the revocation of a patent, the Appellate Board or the High Court, as the case may be, may, subject to the provisions contained in section 59, allow

the patentee to amend his complete specification in such manner and subject to such terms as to costs, Advertisement or otherwise, as the Appellate Board or the High Court may think fit, and if in any proceedings for revocation the Appellate Board or the High Court decides that the patent is invalid, it may allow the specification to be amended under this section instead iof revoking the patent.

(2) Where an application for an order under this section is made to the Appellate Board or the High Court, the applicant shall give notice of the application to the Controller, and the Controller shall be entitled to appear and be heard, and shall appear if so directed by the Appellate Board or the High Court.

(3) Copies of all orders of the Appellate Board or the High Court allowing the patentee to amend the specification shall be transmitted by the Appellate Board or the High Court to the Controller who shall, on receipt thereof, cause an entry thereof an reference thereto to be made in the register.".

42. Amendment of section 59.- In section 59 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) Where after the date of grant of patent any amendment of the specification or any other documents related thereto is allowed by the Controller or by the Appellate Board or the High Court, as the case may be,-

(a) the amendment shall for all purposes be deemed to form part of the specification along with other documents related thereto;

(b) the fact that the specification or any other documents related thereto has been amended shall be published as expeditiously as possible; and

(c) the right of the applicant or patentee to make amendment shall not be called in question except on the ground of fraud.".

43. Amendment of section 60.- In section 60 of the principal Act, in sub-section (1), for the words, brackets and figures "prescribed period or within that period as extended under sub-section (3) of section 53", the words, figures and brackets "period prescribed under section 53 or within such period as may be allowed under sub-section (4) of section 142" shall be substituted.

44. Amendment of section 61.- In section 61 of the principal Act, in sub-section (1), for the words "advertise the application", the words "publish the application" shall be substituted.

45. Amendment of section 62.- In section 62 of the principal Act,-

(a) in sub-section (1), for the word "advertisement", the word "publication" shall be substituted;

(b) in sub-section (2), for the words "date of the advertisement", the words "date of publication" shall be substituted.

46. Amendment of section 63.- In section 63 of the principal Act,-

(a) in sub-section (2), for the word "advertise", the word "publish" shall be substituted;

(b) in sub-section (3), for the words "such advertisement", the words "such publication" shall be substituted.

47. Amendment of section 64.- In section 64 of the principal Act, in sub-section (1), for the words "on the petition of any person interested or of the Central Government or on a counter-claim in a suit for infringement of the patent, be revoked by the High Court", the words "be revoked on a petition of any person interested or of the Central Government by the Appellate Board or on a counter-claim in a suit for infringement of the patent by the High Court" shall be substituted.

48. Substitution of new section for section 65.- For section 65 of the principal Act, the following section shall be substituted, namely:-

"**65. Revocation of patent or amendment of complete specification on directions from Government in cases relating to atomic energy.-** (1) Where at any time after grant of a patent, the Central Government is satisfied that a patent is for an invention relating to atomic energy for which no patent can be granted under sub-section (1) of section 20 of the Atomic Energy Act, 1962 (33 of 1962), it may direct the Controller to revoke the patent, and thereupon the Controller, after giving notice, to the patentee and every other person whose name has been entered in the register as having an interest in the patent, and after giving them an opportunity of being heard, may revoke the patent.

(2) In any proceedings under sub-section (1), the Controller may allow the patentee to amend the complete specification in such manner as the considers necessary insted of revoking the patent.".

49. Substitution of new section for section 68.- For section 68 of the principal Act, the following section shall be substituted, namely:-

"68. Assignments, etc., not to be valid unless in writing and duly executed.- An assignment of a patent or of a share in a patent, a mortgage, licence or the creation of any other interest in a patent shall not be valid unless the same were in writing and the agreement between the parties concerned is reduced to the form of a document embodying all the terms and conditions governing their rights and obligations and duly executed.".

50. Amendment of section 74.- In section 74 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) The Central Government may, by notification in the Official Gazette, specify the name of the Patent Office.".

51. Amendment of section 78.- In section 78 of the principal Act,-

(a) in sub-section (4), for the word "advertised", the word "published" shall be substituted;

(b) in sub-section (5), for the words "such advertisement", the words "such publication" shall be substituted.

52. Amendment of section 84.- In section 84 of the principal Act,-

(a) in sub-section (1), for the word "sealing", the word "grant" shall be substituted;

(b) in sub-section (6), the following Explanation shall be inserted at the end, namely:-

'**Explanation.-** For the purposes of clause (iv), "reasonable period" shall be construed as a period not ordinarily exceeding a period of six months.'.

53. Amendment of section 87.- In section 87 of the principal Act, in sub-section (1), for the words "shall advertise the application in the Official Gazette", the words "shall publish the application in the official journal" shall be substituted.

54. Amendment of section 90.- In section 90 of the principal Act, in sub-section (1), for clause (vii), the following clauses shall be substituted, namely:-

"(viii) that the licence is granted with a predominant purpose of supply in the Indian market and that the licensee may also export the patented product, if need be in accordance with the provisions of sub-clause (iii) of clause (a) of sub-section (7) of section 84;

(viii) that in the case of semi-conductor technology, the licence granted is to work the invention for public non-commercial use;

(ix) that in case the licence is granted to remedy a practice determined after judicial or administrative process to be anti-competitive, the licensee shall be permitted to export the patented product, if need be.".

55. Insertion of new section 92A.- After section 92 of the principal Act, the following section shall be inserted, namely:-

'92A. Compulsory licence for export of patented pharmaceutical products in certain exceptional circumstances.- (1) Compulsory licence shall be available for manufacture and export of patented pharmaceutical products to any country having insufficient or no manufacturing capacity in the pharmaceutical sector for the concerned product to address public health problems, provided compulsory licence has been granted by such country or such country has, by notification or otherwise, allowed importation of the patented pharmaceutical products from India.

(2) The Controller shall, on receipt of an application in the prescribed manner, grant a compulsory licence solely for manufacture and export of the concerned pharmaceutical product to such country under such terms and conditions as may be specified and published by him.

(3) The privisions of sub-sections (1) and (2) shall be without prejudice to the extent to which pharmaceutical products produced under a compulsory licence can be exported under any other provision of this Act.

Explanation.- For the purposes of this section, "pharmaceutical products" means any patented product, or product manufactured through a patented process, of the pharmaceutical sector needed to address public health problems and shall be inclusive of ingredients necessary for their manufacture and diagnostic kits required for their use.'.

56. Amendment of section 100.- In section 100 of the principal Act, in sub-section (3), for the words "the acceptance of the complete specification in respect of the patent", the words "grant of the patent" shall be substituted.

57. Amendment of section 105.- In section 105 of the principal Act, in sub-section (4), for the words "after the date of advertisement of acceptance of the complete specification of a patent", the words "after the publication of grant of a patent" shall be substituted.

58. Amendment of section 107A.- In section 107A of the principal Act,-

(a) in clause (a),-

(i) for the words "using or selling", the words "using, selling or importing" shall be substituted;

(ii) for the words "use or sale,", the words "use, sale or import" shall be substituted;

(b) in clause (b), for the words "who is duly authorised by the patentee to sell or distribute the product", the words "who is duly authorised under the law to produce and sell or distribute the product" shall be substituted.

59. Amendment of section 113.- In section 113 of the principal Act,-

(a) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) If in any proceedings before the Appellate Board or a High Court for the revocation of a patent under section 64 and section 104, as the case may be, the validity of any claim of a specification is contested and that claim is found by the Appellate Board or the High Court to be valid, the Appellate Board or the High Court may certify that the validity of that claim was contested in those proceedings and was upheld.";

(b) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) Nothing contained in this section shall be construed as authorising the courts or the Appellate Board hearing appeals from decrees or orders in suits for infringement or petitions for revocation, as the case may be, to pass orders for costs on the scale referred to therein.".

60. Amendment of section 116.- In section 116 of the principal Act [as substituted by section 47 of the Patents (Amendment) Act, 2002 (38 of 2002)], in sub-section (2), clause (c) shall be omitted.

61. Amendment of section 117A.- In section 117 of the principal Act [as inserted by section 47 of the Patents (Amendment) Act, 2002 (38 of 2002)], in sub-section (2), for the words and figures "section 20, section 25, section 27, section 28", the words, figures and brackets "section 20, sub-section (4) of section 25, section 28" shall be substituted.

62. Amendment of section 117D.- In section 117D of the principal Act [as inserted by section 47 of the Patents (Amendment) Act, 2002 (38 of 2002)], in sub-section (1) for the words, "for rectification of the register", the words and figures "for revocation of a patent before the Appellate Board under section 64 and an application for rectification of the register" shall be substituted.

63. Substitution of new section for section 117G.- For section 117G of the principal Act [as inserted by the Patents (Amendment) Act, 2002 (38 of 2002)], the following section shall be substituted, namely:-

"117G. Transfer of pending proceedings to Appellate Board.- All cases of appeals against any order or decision of the Controller and all cases pertaining to revocation of patent other than on a counter-claim in a suit for infringement and rectification of register pending before any High Court, shall be transferred to the Appellate Board from such date as may be notified by the Central Government in the Official Gazette and the Appellate Board may proceed with the matter either de novo or from the state it was so transferred.".

64. Amendment of section 120.- In section 120 of the principal Act, for the words, "ten thousand rupees", the words "one lakh rupees" shall be substituted.

65. Amendment of section 122.- In section 122 of the principal Act, in sub-section (1), for the words "twenty thousand rupees", the words "ten lakh rupees" shall be substituted.

66. Amendment of section 123.- In section 123 of the principal Act, for the words "ten thousand rupees in the case of a first offence and forty thousand rupees", the words "one lakh rupees in the case of a first offence and five lakh rupees" shall be substituted.

67. Amendment of section 126.- In section 126 of the principal Act,-

(a) in sub-section (1), in clause (c), sub-clause (i) shall be omitted;

(b) in sub-section (2), for the words, brackets and figures "the Patents (Amendment) Act, 2002 (38 of 2002)", the words, brackets and figures "the Patents (Amendment) Act, 2005" shall be substituted.

68. Substitution of new section for section 133.- For section 133 of the principal Act, the following section shall be substituted, namely:-

"133. Convention countries.- Any country, which is a signatory or party or a group of countries, union of countries or inter-governmental organisations which are signatories or parties to an international, regional or bi-lateral treaty, convention or arrangement to which India is also a signatory or party and which affords to the applicants for patents in India or to citizens of India similar privileges as are granted to their own citizens or citizens to their member countries in respect of the grant of patents and protection of patent rights shall be a convention country or convention countries for the purposes of this Act.".

69. Amendment of section 135.- In section 135 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:-

"(3) In case of an application filed under the Patent Cooperation Treaty designating India and claiming priority from a previously filed application in India, the provisions of sub-section (1) and (2) shall apply as if the previously filed application were the basic application:

Provided that a request for examination under section 11B shall be made only for one of the applications filed in India.".

70. Amendment of section 138.- In section 138 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) Where a convention application is made in accordance with the privisions of this Chapter, the applicant shall furnish, when required by the Controller, in addition to the complete specification, copies of the specifications or corresponding documents filed or deposited by the applicant in the patent office of the convention country as referred to in section 133 verified to the satisfaction of the Controller, within the prescribed period from the date of communication by the Controller.".

71. Amendment of section 142.- In section 142 of the principal Act, in sub-section (4), for the words "the complete specification", the words "the application" shall be substituted.

72. /Substitution of new section for section 143.- For section 143 of the principal Act, the following section shall substituted, namely:-

"143. Restrictions upon publication of specification.- Subject to the privisions of Chapter VII, an application for a patent, and any specification filed in pursuance thereof, shall not, except with the consent of the applicant, be published by the Controller before the expiration of the period prescribed under sub-section (1) of section 11A or before the same is open to public inspection in pursuance of sub-section (3) of section 11A or section 43.".

73. Substitution of new section for section 145.- For section 145 of the principal Act, the following section shall substituted, namely:-

"145. Publication of official journal.- The Controller shall publish periodically an official journal which shall contain such information as may be required to be published by or under the provisions of this Act or any made thereunder.".

74. Amendment of section 151.- In section 151 of the principal Act,-

(a) in sub-section (1), for the words "the High Court", occurring at both the places, the words "the High court or the Appellate Board" shall be substituted;

(b) in sub-section (3), for the words "counts", the words "Appellate Board or the courts, as the case may be," shall be substituted.

75. Omission of section 152.- Section 152 of the principal Act shall be omitted.

76. Amendment of section 159.- In section 159 of the principal Act,-

(i) in sub-section (2),-

(a) for clauses (ia) and (ib), the following clauses shall be substituted, namely:-

"(ia) the period which the Controller may allow for filing of statement and undertaking for in respect of applications under sub-section (1), the period within which the details relating to processing of applications may be filed before the Controller and the details to be furnished by the applicant to the Controller under sub-section (2) of section 8;

(ib) the period within which a reference to the deposit of materials shall be made in the specification under sub-clause (A) of clause (ii) of the proviso to sub-section (4) of section 10;

(ic) the period for which application for patent shall not be open to the public under sub-section (1) and the manner in which the applicant may make a request to the Controller to publish his application under sub-section (2) of section 11A;

(id) the manner of making the request for examination for an application for patent and the period within which such examination shall be made under sub-sections (1) and (3) of section 11B;

(ie) the manner in which an application for withdrawal of an application for grant of a patent shall be made and the period within which a request for examination from the date of revocation of secrecy directions shall be made under the proviso to sub-section (4) of section 11B.";

(b) in clause (ii), for the word "advertised", the word "published" shall be substituted;

(c) for clause (v), the following clauses shall be substituted, namely:-

"(v) the manner in which and the period within which the Controller shall consider and dispose of a representation under sub-section (1) of section 25;

(va) the period within which the Controller is required to dispose of an application under section 39;";

(ii) in sub-section (3), the following proviso shall be added at the end, namely:-

"Provided that the Central Government may, if it is satisfied that the circumstances exist which render it practically not possible to comply with such condition of previous publication, dispense with such compliance.".

77. Omission of section 163.- Section 163 of the principal Act shall be omitted.

78. Transitional provision.- (1) Notwithstanding the omission of Chapter IVA of the principal Act by section 21 of this Act, every application for the grant of exclusive marketing rights filed under that Chapter before the 1st day of january, 2005, in respect of a claim for a patent covered under sub-section (2) of section 5 of the principal Act, such application shall be deemed to be treated as a request for examination for grant of patent under sub-section (3) of section 11B of the principal Act, as amended by this Act.

(2) Every exclusive right to sell or distribute any article or substance in India granted before the 1st day of January, 2005 shall continue to be effective with the same terms and conditions on which it was granted.

(3) Without prejudice to any of the provisions of the principal Act, the applications in respect of which exclusive rights have been granted before the 1st day of January, 2005 shall be examined for the grant of patent immediately on the commencement of this Act.

(4) All suits relating to infringement of the exclusive right granted before 1st day of January, 2005 shall be dealt with in the same manner as if they were suits concerning infringement of patents under Chapter XVIII of the principal Act.

(5) The examination and investigation required as carried out for the grant of exclusive right shall not be deemed in any way to warrant the validity of any grant of exclusive right to sell or distribute, and no liability shall be incurred by the Central Government or any officer thereof by reason of, or in connection with, any such examination or investigation or any report or other proceedings consequent thereon.

79. Repeal and saving.- (1) The Patents (Amendment) Ordinance, 2004 (Ord. 7 of 2004) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ರಿಚಾರ್ಡ್ ಲೋಬೋ

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

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